

- (xi) boat and vehicle repair shops (this exemption covers the sale of goods incidental to such repair services. It would not permit a bicycle repair shop to sell bicycles on a holiday, but does permit the sale of component parts where these parts are used to repair the bicycle by the firm offering the repair service);
- (xii) hairdressing salons and barber shops (there is no exemption from holiday closing in the law for these types of services. However, if the services are available on a holiday only to those patrons who have made appointments with their hairdresser or barber prior to the holiday, and if the doors of the establishment are not open to admit members of the general public, then the law is not contravened);
- (xiii) photography studios (the remarks concerning hairdressing salons and barber shops apply here);
- (xiv) recreational, educational and amusement establishments (the law permits the admission of the public to premises for educational, recreational or amusement purposes and permits the sale of goods or services incidental to such admission. Examples are museums, public art galleries, and places of historical interest. There is no objection to the sale of such things as pamphlets, postcards and souvenirs in these establishments.

The exemption would not include establishments which have as their principal business the sale of goods which are recreational or educational in nature. For example, sporting goods stores, book stores, music stores, record stores, photography supply centres and swimming pool

sales and supply centres must close on holidays);

- (xv) flea markets (each vendor's operation must be considered separately and he must fit his business into one of the exemptions in the law if he is to operate on a holiday. In other words, a stall selling flowers has no limits placed on it, whereas a stall selling handicrafts must meet the requirements concerning size and number of employees. A stall selling hardware is not permitted to open on a holiday).

#### Stores Which Are Not Exempt from the Legislation

The following list is not meant to be all-inclusive and merely indicates some of the more common types of businesses which must close on holidays:

department stores  
clothing stores  
shoe stores  
drygoods stores  
hardware stores  
hobby shops  
music, record and tape stores  
used or new car sales  
prefabricated home sales  
paint stores  
wood and lumber centres  
book stores  
sporting goods stores  
gift stores, variety stores and second-hand stores which do not comply with the small stores exemption described above  
dry cleaning establishments  
travel agencies  
printing and stationery shops  
photocopying shops

real estate offices (the law does not exempt such establishments and they must close on holidays, including Sunday. However, the law does not forbid the showing of homes to prospective purchasers.)  
pet shops

The law prohibits the opening of these businesses for browsing on a holiday. Thus, establishments selling such goods as draperies, broadloom, cars, swimming pools and prefabricated homes must be completely closed.

#### Provisions Dealing with Sunday Only

1. A store which would have to close on holidays under the rules described above may open Sunday if:
  - (i) it is closed Saturday and
  - (ii) if no more than seven persons are working in the store on that Sunday and
  - (iii) if the shopping area is less than 5,000 square feet.

The "Saturday" closing must be for a period of not less than 24 consecutive hours between 4:00 p.m. on Friday and midnight on Saturday. Note that this provision deals only with Sunday openings and closing on Saturday, and does not permit opening on a holiday other than the following Sunday. The store need not adopt the "Saturday option" regularly and no licence or approval is required.

2. The sale of goods and services permitted under the federal Lord's Day Act and The Lord's Day (Ontario) Act is permitted under this law also. In general, such goods and services may be sold where permission is granted by a municipal by-law. Among the activities which may be authorized by a municipal by-law under The Lord's Day (Ontario) Act are agricultural exhibitions, trade shows, musical performances, stage and cinema performances and sporting performances.

#### General

1. The Retail Business Holidays Act applies throughout the Province of Ontario. However, where it is essential for the maintenance or development of a tourist industry within its jurisdiction, a municipal council may pass a by-law exempting any type or types of retail business establishment from the closing requirement. The by-law may impose conditions and may apply to part of the municipality and to specified times during the year. An application for an exempting by-law should be made to the municipal council within whose jurisdiction the applicant carries on business.

In territory without municipal organization, the Lieutenant Governor in Council exercises the same power as a municipal council noted above.

2. The law does not affect any power municipalities may have to be more restrictive as regards closing. Thus, a shop exempted under The Retail Business Holidays Act might still be required by a municipal by-law to close on a holiday. Municipalities are not, however, permitted to make a by-law to relax the prohibitions of the Act (except that they may pass tourism by-laws as described above).

This pamphlet is published to provide general information as to the terms of The Retail Business Holidays Act, 1975. If you face a particular legal problem or require an authoritative interpretation of the law, you are advised to have reference to the legislation and/or to consult your lawyer. The legislation is available from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario at a cost of 25 cents per copy.

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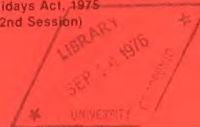
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Ontario

# STORE CLOSING LAW SUNDAYS AND OTHER HOLIDAYS

The Retail Business  
Holidays Act, 1975  
(2nd Session)



**The Retail Business Holidays Act, 1975  
(2nd Session)**

This law came into force throughout Ontario on January 1st, 1976. Its aim is to provide for common days of rest on which retailing will be kept to a minimum and leisure time activity encouraged. The law requires retail business establishments to close on these holidays:

every Sunday  
New Year's Day  
Good Friday  
Victoria Day  
Dominion Day  
Labour Day  
Thanksgiving Day  
Christmas Day  
Boxing Day

On these days, no goods or services can be offered for sale or sold to the public, and no member of the public can be admitted to the establishment. The law is enforced by the police. If a person or firm is charged and convicted, he can be fined up to \$10,000, at the discretion of the judge.

Retail business establishments are defined in the law as premises where goods or services are sold or offered for sale by retail. The premises may be indoors, outdoors, or both. Some provisions of the law permit a business to open if the retail area is small. In this case, regard must be had to all space used, whether indoors or outdoors. This will be described in more detail below.

**Exemptions from Closing**

To avoid hardship and inconvenience to retailers and the public, the law exempts certain types of retail business establishments. Some stores and establishments can remain open on a holiday if they meet certain requirements as to floor area and the number of people serving the public. Other establishments are free to remain open regardless of size and the number of people working, depending on the type of goods and services sold. The "small stores exemption" will be considered first.

**Small Stores Exemption**

To open on a holiday, these stores must have as their principal or main business the sale of one or more of the following:

- (i) food (this may include soft drinks and confectionery items);
- (ii) newspapers or periodicals (this does not include paperback books or other books which are not published on a periodic or regular basis);
- (iii) tobacco or articles required for the use of tobacco (this may include cigars, cigarettes, roll-your-own papers, pipes, pipe tobacco, lighters and lighter fluid and matches);
- (iv) antiques (the law does not define "antique". Generally speaking those items in the "collectable" class are included here although their ages may vary greatly);
- (v) handicrafts (these are goods that are handmade and the product of a recognized craft or skill. The principal effort expended in manufacture must be manual, without the aid of tools or machines which are capable of producing more than one item at a time. Such goods may include

hand-made jewellery, paintings and drawings, sculptures, wood carvings, stone carvings, leather purses, belts, watchbands, bead work, batik, macramé, and hand-crafted pottery that is not mass produced. Articles that are not considered to fall within this category are mechanical reproductions of paintings and drawings and hand-sewn items of wearing apparel such as shirts, blouses, and robes).

Stores that have one or more of the above as their principal line of goods (i.e. their main business) may also have minor lines or miscellaneous items.

Two other conditions must be met before small stores can open on a holiday:

- (i) There must be no more than three people serving the public in the establishment. This includes the proprietor, the manager and anyone else who may be working in the store. It would include shelf stockers, attendants at fruit and vegetable counters, butchers and persons checking out groceries and receiving money from the public. It would not include a deliveryman working outside the store.
- (ii) The second condition for these types of stores is that the total area of the store used for serving the public, displaying to the public, or selling to the public must not exceed 2,400 square feet. Again, this

would not include the space used for storage or warehousing at the rear of a small store, provided that the public does not have access to it. It would include, however, space on the outside of the store (usually in the sidewalk area) used to display goods to the public.

Among the stores and establishments that would be covered by this exemption are small grocery stores, bakeries, candy shops, and butcher shops. Some gift and variety stores may be permitted to open on holidays, depending upon whether or not they can establish that their principal line of goods is one of those mentioned above, or a combination of them.

It must be remembered that small stores must comply with all three requirements, namely:

- (i) the type of goods sold;
- (ii) the number of people working in the establishment;
- (iii) the size of the shopping or retail area.

**Drug Stores**

An accredited drug store or pharmacy may remain open on holidays under certain conditions. The prescription counter must be open, and the principal business on the holiday must be the sale of goods of a cosmetic, pharmaceutical, hygienic, or therapeutic nature. Sidelines are also permitted. On holidays, there must be no more than four persons engaged in the service of the public in the pharmacy at any time.

**Other Businesses**

There are a number of types of retail business establishments which are free to remain open on Sundays and other holidays, and

which are not subject to restrictions as to shopping area and the number of persons working in the establishment. Among these are:

- (i) service stations (these may carry on their regular business of selling gas and oil, and other goods for consumption in the operation of a motor vehicle);
- (ii) car washes (the courts have determined that car washes are exempt from the law and can open on all holidays);
- (iii) plant nurseries and flower stores (stores selling flowers and/or nursery stock, including bedding plants, are free to remain open on holidays without restriction as to size or number of employees. Such stores may also sell gardening supplies as a sideline or accessory. This would include fertilizer, seed, hoes, garden implements, lawn mowers, patio stone and potting equipment but not lawn furniture.

It must be remembered that stores offering gardening supplies for sale on a holiday must have as their principal business on that day the sale of nursery stock and/or flowers. Also, no merchandise can be available for sale except flowers, nursery stock, and gardening supplies);

- (iv) fresh fruit and vegetable stands or stores (this type of business can remain open on holidays falling between April 1 and November 30, and is also unrestricted as to size or number of employees. However, these establishments must sell only fresh fruit and vegetables. If they offer

fer other kinds of groceries for sale as well, then they will be forced to put themselves into the small stores category mentioned above (i.e. with restrictions as to size and number of employees). The only exception is that a nursery stock or flower operation can be combined with a fresh fruit and vegetable operation);

- (v) restaurants and take-outs (restaurants are not affected by this legislation and can remain open, subject of course to any municipal by-laws which may affect them);
- (vi) facilities licensed by the Liquor Licence Board of Ontario (such facilities are not affected by this legislation, and may remain open on holidays, subject to the terms of their licences and the liquor laws);
- (vii) licensed tourist establishment (an establishment providing accommodation and which is licensed under The Tourism Act is exempt);
- (viii) hotels and motels (an establishment providing living accommodation is exempt under the law. However, businesses carried on within the premises of larger hotels (drug stores, newsstands, clothing shops, etc.) have to be considered individually and do not come within the exemption granted to hotels and motels);
- (ix) laundromats and other coin-operated services (the law exempts operations of this nature);
- (x) boat and vehicle rentals (firms which rent boats and vehicles of all kinds — cars, trucks, bicycles, trailers, etc. — to the public are exempted by the law, for rental purposes only);